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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,870	12/14/2001	Stephen Arthur Anderson	01-754	5982
7590	01/21/2005		EXAMINER	
Ogilvy Renault			BOYD, JENNIFER A	
1981 McGill College Avenue				
Suite 1600			ART UNIT	PAPER NUMBER
Montreal, QC H3A2Y3			1771	
CANADA				

DATE MAILED: 01/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)
	10/016,870	ANDERSON, STEPHEN ARTHUR
	Examiner	Art Unit
	Jennifer A Boyd	1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 15 November 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-19 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 15, 2004 has been entered. The Applicant's Amendments and Accompanying Remarks, filed November 15, 2004, have been entered and have been carefully considered. Claims 1, 10 and 12 are amended and claims 1 – 19 are pending. The invention as currently claimed is not found to be patentable for reasons herein below.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Objections

3. Claims 10 and 12 are objected to because of the following informalities: the Applicant claims "an machine". Please replace "an" with "a". Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it

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pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1 – 19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The Applicant has failed to indicate in the Specification how the maximum void size is determined and has failed to provide numerical dimensions for the void size that would limit flame propagation. The Applicant only describes the maximum void size by using functional language rather than providing a physical means of comparison. Furthermore, the Examiner has conducted a prior art search in order to determine how one of ordinary skill in the art would determine the maximum void size. The search did not provide any prior art which indicates how such a parameter is determined. Therefore, it is the responsibility of the Applicant to indicate how the void size is determined and provide dimensions for the void size.

Claim Rejections - 35 USC § 102

6. Claims 1, 3 - 4, 8, 10, 12, 17 and 19 remain rejected under 35 U.S.C. 102(e) as being anticipated by Alhamad (US 6,349,774). The details of the rejection are found in paragraph 6 of the previous Office Action dated February 2, 2004. The rejection is maintained.

Claim 1 has been amended to require a fire retarding device comprising “a machine disposed inside a casing, the casing becoming hot when the machine is operated, the casing in use being potentially exposed to at least one liquid which poses a fire risk when the liquid contacts the hot casing”. Claims 10 and 12 have been amended to require “the casing housing a

machine therein and becoming hot during machine use". Alhamad teaches sheet-like material for covering containers such as fuel depots, gas tanks, pipelines, etc which are at risk from explosion caused by overheating, static electricity build up, mechanical impacts etc (column 1, lines 35 – 50). Alhamad teaches the fire extinguishing capability of the metal net is based on the phenomenon that flame at the surface of a burning material cannot pass upwardly through the pores of the metal net (column 2, lines 33 – 36). Furthermore, it has been held that a recitation with respect to the manner in which a claimed article is intended to be employed does not differentiate the claimed article from a prior art article satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Claim Rejections - 35 USC § 103

7. Claim 16 remains rejected under 35 U.S.C. 103(a) as being unpatentable over Alhamad (US 6,349,774). The details of the rejection are found in paragraph 7 of the previous Office Action dated February 2, 2004. The rejection is maintained.

8. Claims 2, 7 – 8, 11, 13 – 14 and 18 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Alhamad (US 6,349,774) in view of Gooliak (US 2003/0060107 A1). The details of the rejection are found in paragraph 8 of the previous Office Action dated February 2, 2004. The rejection is maintained.

9. Claims 5 and 6 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Alhamad (US 6,349,774) in view of Nevin (GB 2,266,051 A). The details of the rejection are

found in paragraph 9 of the previous Office Action dated February 2, 2004. The rejection is maintained.

Response to Arguments

10. Applicant's arguments filed November 15, 2004 have been fully considered but they are not persuasive.

11. In response to Applicant's Arguments that Alhamad (US 6,349,774) teaches away from the fire retarding device of the present invention, the Examiner respectfully argues the contrary. Alhamad teaches an expandable metal product for use in extinguishing fires (Abstract). Alhamad teaches a three-dimensional expandable metal net having discontinuous slits in spaced apart lines parallel to each other but transverse to the longitudinal dimension of the sheet (column 2, lines 25 – 35). Alhamad teaches the fire extinguishing capability of the metal net is based on the phenomenon that flame at the surface of a burning material cannot pass upwardly through the pores of the metal net (column 2, lines 33 – 36). Alhamad teaches by controlling the extent of the stretching, it is possible to produce an expanded metal prismatic net structure having the desired shape and size of eyes, and the desired expansion in area, depending on the use intended (column 6, lines 20 – 25). The Applicant indicates that the void size of Alhamad is "too large". However, the Applicant never defines "maximum void size" with a numerical value so there is no evidence that the void size of Alhamad is too large. Also, it is unclear what size would be a "maximum size". It should be noted that the term "maximum" is a relative term. Therefore, because the metal net of Alhamad limits flame propagation as required by Applicant, it is the position of the Examiner that the pores of the metal net are of Applicant's "maximum size". Furthermore, the

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Applicant indicates that the device of Alhamad limits flame propagation by other means such as by the heat conductivity of the device. The Examiner submits that multiple parameters can lead to limiting flame propagation and no evidence has been provided that the device of Alhamad does not limit flame propagation by selection of pore or slit size. The Examiner once again highly suggests to provide a numerical value for the maximum void size. The rejection is maintained.

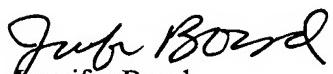
12. In response to Applicant's argument that the Examiner has not provided motivation to adapt the expanded-metal net of Alhamad into the blanket formats of Gooliak or Nevin, the Examiner respectfully argues the contrary. The Examiner has provided motivation as shown in the rejections as detailed in the Office Action of February 2, 2004. The rejection is maintained.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A Boyd whose telephone number is 571-272-1473. The examiner can normally be reached on Monday thru Friday (8:30am - 6:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jennifer Boyd

January 14, 2005



ELIZABETH M. COLE

PRIMARY EXAMINER